

DEC 10 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCO JAVIER SANCHEZ
MARTINEZ; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-73654

Agency Nos. A096-064-279
A096-064-280

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 1, 2008^{**}

Before: GOODWIN, CLIFTON and BEA, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’
 (“BIA”) denial of administrative closure of a previously denied application for

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

cancellation of removal, subject to a final order of removal as of March 7, 2008.

We review this decision for an abuse of discretion. *See Ray v. Gonzalez*, 439 F.3d 582 (9th Cir. 2006) (citing *Singh v. Ashcroft*, 367 F.3d 1182, 1185 (9th Cir. 2004)).

We conclude that the BIA did not abuse its discretion by denying petitioners' motion for administrative closure because a final removal order had issued on March 7, 2008, and petitioners no longer had a case pending before the BIA when they filed the motion on May 23, 2008. Therefore, the BIA was without jurisdiction to administratively close this case, which was not on its docket. *See* 8 C.F.R. § 245a.13(f).

Accordingly, respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

All other pending motions are denied as moot. The temporary stay of removal shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.